

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FRAY LYNCH,	:	
	:	
Plaintiff,	:	
	:	C.A. NO. 06-351 JJF
v.	:	
	:	JURY TRIAL DEMANDED
CITY OF WILMINGTON,	:	
	:	
Defendant.	:	

DEFENDANT'S PROPOSED FINAL PRETRIAL ORDER*

On Friday, December 7, 2007 at 2:30 p.m., counsel for Plaintiff Fray Lynch and counsel for Defendant City of Wilmington will participate in a pretrial conference before this Court pursuant to Rule 16 of the Federal Rules of Civil Procedure and Local Rule 16.4 of this Court.

Plaintiff's Counsel:

Robert T. Vance, Jr.
Law Offices of Robert T. Vance, Jr.
100 South Broad Street, Suite 1530
Philadelphia, PA 19110
(Lead Counsel)

G. Kevin Fasic (I.D. 3496)
Law Office of G. Kevin Fasic
1225 King Street, Suite 200
Wilmington, DE 19801
(Local Counsel)

Defendant's Counsel:

Alex J. Mili, Jr. (I.D. 4125)
City of Wilmington Law Department
City/County Building, 9th Floor
800 North French Street
Wilmington, DE 19801-3537

*Defendant's counsel has requested Plaintiff's insertions for the Pre-trial Order, so as to meet this Court's deadline of submitting the Pre-trial Order five days before the pre-trial conference that is scheduled for December 7, 2007, as required by D. Del. L. R. 16.3 (d)(4). As of November 30, 2007, Plaintiff has not disclosed her portion of the Pre-trial Order. For that reason, Defendant is submitting only the defense portion of the Pre-trial Order, while reserving the right to supplement if or when Plaintiff discloses her insertions for the Pre-trial Order.

I. NATURE OF THE ACTION:

This is a gender-based hostile work environment claim and a retaliation claim arising under Title VII and its anti-retaliation provisions. Plaintiff alleges that she was sexually harassed by Michael Brown, an employee of the City of Wilmington, and that Brown retaliated against her for filing an internal complaint of sexual harassment.

II. JURISDICTION:

This is an action brought pursuant to Title VII. This Court has jurisdiction over this action pursuant to 28 U.S.C § 1331 and 28 U.S.C § 1367.

III. STATEMENT OF UNCONTROVERTED FACTS

1. June 2, 2004, is the first date that Plaintiff notified Defendant of her allegations that Michael Brown sexually harassed her.

2. The community meeting of November 23, 2004, (in which Fray Lynch encountered Michael Brown) took place at a facility that is not owned by the City of Wilmington.

3. The community meeting of November 23, 2004, did not take place during the regular hours of operation of the City of Wilmington (9:00 a.m. to 5:00 p.m. Monday through Friday).

IV. ISSUES OF LAW

Defendant's Motion for Summary Judgment

V. STATEMENTS OF THE ISSUES OF FACT THAT THE PARTIES CONTEND REMAIN TO BE LITIGATED:

A. Plaintiff's issues of fact:

B. Defendants' issues of fact:

1. Whether Michael Brown made sexually suggestive comments to Fray Lynch after June 2, 2004.

2. Whether Michael Brown's employer assigned or otherwise directed him to attend the community meeting of November 23, 2004, in which he encountered Plaintiff.

VI. EXHIBITS:

A. Plaintiff's Exhibits:

Plaintiff has not disclosed any of her exhibits, despite requests from defense counsel for Plaintiff's insertions in the Pre-trial Order.

A. Defendants' objections to Plaintiff's Exhibits:

Defendant reserves all objections to any of Plaintiff's exhibits, if or when they are identified.

B. Defendants' Exhibits:

1. Plaintiff's April 2007 report of damage to her squad vehicle.
2. Plaintiff's Disciplinary Record of the Office of Professional Standards.
3. The Anti-Harassment Policy of the City of Wilmington.

B. Plaintiff's objections to Defendant's Exhibits:

VII. WITNESSES:

A. Plaintiff's Witnesses:

Plaintiff has not disclosed any witnesses, despite requests from defense counsel for Plaintiff's insertions in the Pre-trial Order.

Fact Witnesses

B. Defendants' Witnesses:

Fact Witnesses

Monica Gonzalez-Gillespie, 800 N. French Street, Wilmington, DE 19801

John Burns, 300 North Walnut Street, Wilmington, DE 19801

Gregory Ciotti, 300 North Walnut Street, Wilmington, DE 19801

Richard Armorer, 300 North Walnut Street, Wilmington, DE 19801

Paris Armorer, 110 Woodland Road, Newark, DE 19702

Defendant reserves the right to call witness identified by opposing party.

VIII. BRIEF STATEMENT OF WHAT PLAINTIFF EXPECTS TO PROVE IN SUPPORT OF HER CLAIM:

Plaintiff has not completed her portion of the Pre-trial Order, despite requests from defense counsel for Plaintiff's insertions in the Pre-trial Order.

A. Defendant's Defense

Defendant reserves the right to state its defenses when Plaintiff completes her portion of the Pre-trial Order by disclosing what she expects to prove in support of her claim.

X. STATEMENTS OF COUNTERCLAIMS OR CROSS-CLAIMANTS:

None.

XI. AMENDMENTS TO PLEADINGS

A. Plaintiff:

B. Defendant:

None.

XII. CERTIFICATION OF GOOD FAITH SETTLEMENT NEGOTIATIONS:

On November 28, 2007, Defendant tendered a settlement offer of \$20,000.00. Plaintiff has not responded to that offer, nor has Plaintiff made a demand for settlement.

XIII. OTHER MATTERS DEEMED APPROPRIATE BY THE PARTIES:

A. Plaintiff:

B. Defendant:

XIV. Trial of this case is expected to take 4 days.

XV. Trial by jury.

XVI. The parties recommend that 8 jurors be selected at the commencement of trial.

THIS ORDER SHALL CONTROL THE SUBSEQUENT COURSE OF THE ACTION UNLESS MODIFIED BY THE COURT TO PREVENT MANIFEST INJUSTICE.

<p>LAW OFFICES OF ROBERT T. VANCE, JR.</p> <p>BY: _____</p> <p>Robert T. Vance, Jr. Law Offices of Robert T. Vance, Jr. 100 South Broad Street, Suite 1530 Philadelphia, PA 19110 <i>Counsel for Plaintiff</i></p>	<p>CITY OF WILMINGTON LAW DEPARTMENT</p> <p>BY: <u>/s/ Alex J. Mili, Jr.</u></p> <p>Alex J. Mili, Jr. (I.D. 4125) City of Wilmington Law Department City/County Building, 9th Floor 800 North French Street Wilmington, DE 19801-3537 <i>Counsel for Defendant</i></p>
<p>LAW OFFICES OF G. KEVIN FASIC</p> <p>BY: _____</p> <p>G. Kevin Fasic (I.D. 3496) Law Office of G. Kevin Fasic 1225 King Street, Suite 200 Wilmington, DE 19801</p>	

SO ORDERED on _____, 2007.

THE HON. JOSEPH J. FARNAN, JR.